

No. 13 of 1976

## AN ORDINANCE

To amend the *Education Ordinance 1937-1971*.

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1973*.

Dated this thirtieth day of March, 1976.

JOHN R. KERR  
Governor-General.

By His Excellency's Command,

J. L. CARRICK  
Minister of State for Education.

### EDUCATION ORDINANCE 1976

1. (1) This Ordinance may be cited as the *Education Ordinance 1976*.<sup>\*</sup> Short title and citation.

(2) The *Education Ordinance 1937-1971*<sup>†</sup> is in this Ordinance referred to as the Principal Ordinance.

(3) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Education Ordinance 1937-1976*.

2. Section 4 of the Principal Ordinance is repealed. Repeal.

3. Section 5 of the Principal Ordinance is amended by omitting the definition of "Inspector of Schools" and substituting the following definitions:— Definitions.

"'authorized person' means a person authorized by the Secretary to act for the purposes of this Ordinance;

'Department' means the Department of State administered by the Minister of State for the time being administering this Ordinance;

'Secretary' means the person who, for the time being, is, or is performing the duties of, the Permanent Head of the Department within the meaning of the *Public Service Act 1922-1975*;"

4. Section 6 of the Principal Ordinance is repealed. Repeal.

<sup>\*</sup> Notified in the *Australian Government Gazette* on 13th April, 1976.

<sup>†</sup> Ordinance No. 25, 1937, as amended by No. 23, 1938; No. 6, 1947; No. 12, 1947; No. 5, 1952; No. 11, 1956; No. 11, 1958; No. 21, 1959; No. 4, 1964; Nos. 3 and 19, 1966; and No. 28, 1971.

Compulsory  
enrolment.

**5.** Section 8 of the Principal Ordinance is amended by omitting from sub-section (1) the word "certified" and substituting the word "registered".

Employment  
of children  
under school  
leaving age.

**6.** Section 9A of the Principal Ordinance is amended by omitting paragraph (2) (b) and substituting the following paragraph:—

"(b) a certificate under section 16 was in force in respect of the child."

Defence in  
prosecutions  
under  
sections 8  
and 9.

**7.** Section 10 of the Principal Ordinance is amended—

(a) by omitting paragraph (c) and substituting the following paragraph:—

"(c) a certificate under section 16 was in force in respect of the child; or";

(b) by omitting from paragraph (d) the words "three miles" (wherever occurring) and substituting the figure and word "5 kilometres";

(c) by omitting from paragraph (d) the words "two miles" (wherever occurring) and substituting the figure and word "3 kilometres"; and

(d) by omitting from paragraph (d) the word "mileage" and substituting the words "the distance travelled".

Certain  
averments  
to be  
evidence.

**8.** Section 12 of the Principal Ordinance is amended by omitting from paragraph (1) (c) the word "certified" and substituting the word "registered".

Certificate  
of school  
principal  
to be  
evidence.

**9.** Section 14 of the Principal Ordinance is amended by omitting the word "certified" and substituting the word "registered".

Register of  
attendances.

**10.** Section 15 of the Principal Ordinance is amended by omitting from paragraph (1) (b) the words "Inspector of Schools" and substituting the words "authorized person".

Exemption  
certificates.

**11.** Section 16 of the Principal Ordinance is amended—

(a) by omitting from sub-section (1) the words "An Inspector of Schools" and substituting the words "The Secretary or an authorized person";

(b) by omitting from paragraph (1) (d) the word "certified" and substituting the word "registered"; and

(c) by omitting from paragraph (1) (d) the words "the Inspector of Schools" and substituting the words "the Secretary or an authorized person".

Heading to  
Part III.

**12.** The heading to Part III of the Principal Ordinance is omitted and the following heading substituted:—

"PART III—REGISTERED SCHOOLS".

Schools to be  
registered.

**13.** Section 21 of the Principal Ordinance is amended—

(a) by omitting from sub-section (1) the word "certified" and substituting the words "provisionally registered"; and

- (b) by omitting from sub-section (2) the word "certified" and substituting the words "provisionally registered".

**14.** Sections 22 and 23 of the Principal Ordinance are repealed and the following sections substituted:—

"22. (1) A person may make application in writing to the Registrar for the provisional registration of a school. Provisional registration.

"(2) Where—

- (a) an application has been made under sub-section (1); and  
(b) the Minister is satisfied—

- (i) that the premises in which the school is to be conducted are provided with proper access, drainage, light, ventilation and sanitary conveniences; and  
(ii) that the school will provide regular and efficient instruction,

the Minister shall direct the Registrar to enter the name of the school on the list of schools kept for the purposes of this section.

"(3) Where the Minister gives a direction under sub-section (2), the Registrar shall enter the name of the school on the list of schools kept for the purposes of this section.

"(4) A school the name of which appears on the list referred to in sub-section (3) shall be taken to be provisionally registered.

"(5) Subject to section 25, provisional registration of a school expires on the thirty-first day of December next following the date on which the name of the school was entered on the list referred to in sub-section (3).

"23. (1) The Minister shall, before the expiration of the provisional registration of a school, appoint authorized persons to report on the school and, if those persons report to the Minister that regular and efficient instruction is being given in the school, the Registrar may, with the approval of the Minister, issue a certificate of registration of the school. Assessment of schools for registration.

"(2) Where a certificate is issued under sub-section (1) in respect of a school, the school is a registered school for the purposes of this Ordinance for the period specified in the certificate."

**15.** Section 24 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) the words "Inspector of Schools" and substituting the words "authorized person"; and  
(b) by omitting from sub-section (3) the words "Inspector of Schools" and substituting the words "authorized person". Inefficient schools.

**16.** Section 25 of the Principal Ordinance is amended—

- (a) by omitting the word "registered" and substituting the words "provisionally registered"; and  
(b) by omitting the word "certified" and substituting the word "registered". Extension of registration.

Registration  
may be  
limited.

**17. Section 26 of the Principal Ordinance is amended—**

- (a) by omitting from sub-section (1) the words “certified to be” and substituting the words “registered as”;
- (b) by omitting from sub-section (1) the words “or to be” and substituting the words “or as”;
- (c) by omitting from sub-section (1) the words “Inspector of Schools” and substituting the words “authorized person”; and
- (d) by omitting from sub-section (2) the words “certified to be” and substituting the words “registered as”.

**18. Section 27 of the Principal Ordinance is repealed and the following section substituted:—**

Cancellation  
of  
registration  
of school.

“27. (1) The Minister may cause a registered school to be inspected by an authorized person.

“ (2) The Minister may cancel the registration of a school if he is satisfied—

- (a) that efficient and regular instruction is not being given in the school; or
- (b) that the proprietor or principal teacher has contravened, or failed to comply with, this Ordinance.”.

List of  
registered  
schools.

**19. Section 28 of the Principal Ordinance is amended by omitting the word “certified” (wherever occurring) and substituting the word “registered”.**

Inspection  
of school  
buildings.

**20. Section 29 of the Principal Ordinance is amended—**

- (a) by omitting from sub-section (1) the words “Inspector of Schools” and substituting the words “authorized person”; and
- (b) by omitting from sub-section (3) the words “if certified, shall cease to be a certified school” and substituting the words “if registered, shall cease to be registered”.

**21. After section 29 of the Principal Ordinance, the following section is inserted in Part III:—**

Appeals.

“30. (1) A person who is aggrieved by a decision of the Minister or the Registrar under this Part or the failure of the Minister to give his approval for the purposes of a provision of this Part may appeal to the Supreme Court.

“ (2) An appeal under sub-section (1) shall be instituted within 21 days after the date on which the appellant received notice of the decision or failure to which the appeal relates.

“ (3) The parties to an appeal under this section are the appellant and the Minister.

“ (4) An appeal under this section shall be by way of rehearing.

“ (5) On an appeal under this section, the Court may—

- (a) set aside, vary or confirm the decision of the Minister; and

- (b) in the case of an appeal against the failure of the Minister to give his approval—direct the Registrar to exercise his powers as if the Minister had given his approval.

“(6) On an appeal under this section, the Court, in addition to any order it may make under sub-section (5), may make such other order as to the Court seems just.”.

**22.** Section 32 of the Principal Ordinance is amended by omitting from sub-section (1) the word “certified” and substituting the word “registered”. Return by parent or guardian.

**23.** Section 34 of the Principal Ordinance is amended— Admission to school.

- (a) by omitting the words “two miles” (wherever occurring) and substituting the figure and word “3 kilometres”; and
- (b) by omitting the words “three miles” (wherever occurring) and substituting the figure and word “5 kilometres”.

**24.** (1) Where a school was, immediately before the date of commencement of this Ordinance, a provisionally certified school within the meaning of the Principal Ordinance, the Principal Ordinance as amended by this Ordinance applies to, and in relation to, that school as if the Registrar had, on that date, entered the name of the school on the list kept for the purpose of section 22 of the Principal Ordinance as amended by this Ordinance. Transitional provisions.

(2) Where, on the date of commencement of this Ordinance, the term stated in a certificate issued under section 23 of the Principal Ordinance had not expired, the certificate has effect, for the remainder of that term, as if it were a certificate issued under section 23 of the Principal Ordinance as amended by this Ordinance.

(3) Where, by virtue of sub-section (2), a certificate issued under section 23 of the Principal Ordinance continues to have effect—

- (a) if the certificate certifies a school to be a secondary school for the instruction of children of all ages—the school shall be deemed, while the certificate continues to have effect, to be registered as such a school; and
- (b) if the certificate certifies a school to be a primary school for the instruction of children to the school leaving age—the school shall be deemed, while the certificate continues to have effect, to be registered as such a school.